



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

JUN 11 2002

Kent Cooper
Tony Raymond
Kirk Ervin
TRKC Inc
50 F Street, N.W.
Suite 1198
Washington, DC 20001

RE: MUR 5155

Dear Mssrs. Cooper, Raymond and Ervin:

On June 3, 2002, the Federal Election Commission found that there is reason to believe TRKC Inc., violated 2 U.S.C. § 438(a)(4), a provision of the Act. The Factual and Legal Analysis, which formed the basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be

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demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact April Sands, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



David M. Mason

Chairman

Enclosures

Factual and Legal Analysis

Procedures

Designation of Counsel Form

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FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: TRKC, Inc.

MUR: 5155

I. GENERATION OF MATTER

This matter was generated based on information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437(g)(a)(1).

II. FACTUAL AND LEGAL ANALYSIS

A. Applicable Law

Any information copied from reports filed with the Commission may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

The term "contribution" is defined to include any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(8)(A)(i). The term "person" is defined to include an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons. 2 U.S.C. § 431(11).

B. Analysis

TRKC Inc. operates a free Internet news site dedicated to the topic of political money and from which the general public can access political money information. The

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Political Money Line (Political MoneyLine)¹ is the home page for several other Internet websites, including <http://www.tray.com> and <http://www.fecinfo.com>. The webhost of the site where this information can be found, TRKC Inc., states that it "routinely collects paper and electronic information from numerous agencies, departments and offices in Washington, D.C. These offices include the Federal Election Commission"

There are also several commercial endeavors TRKC Inc. has in place which apparently use information compiled, at least in part, from reports filed with the Commission. The following are excerpts from the "What We Do" portion of the Political MoneyLine website:

We contract with clients for specialized searches and collection efforts.

2. Data Storing – TRKC Inc. has a wealth of data stored in our computer servers in the office and secure off-site locations. We offer web-hosting services for those organizations that find it more convenient, efficient or cost effective to contract out data storage.

3. Data Transmission – TRKC Inc. has an expertise in web-based Electronic filing systems. We currently contract with the Secretary of the U.S. Senate for the development and implementation of their Electronic Filing System for Lobby Registration and Reporting. We contract with clients for specialized coding or new databases crafted from our overall collection of political information.

¹ From the "What We Do " page found at <http://www.tray.com/cgi-win/indexhtml.exe?MBF=whatwedo>: "PoliticalMoneyLine seeks to facilitate the general public access to information from government [sic] and non-government sources on issues of vital relevance to the people [sic] It also seeks to encourage and assist the dissemination of government information and documents."

5. Data Analysis – TRKC Inc. has the expertise to analyze and summarize the movement of political money to and from the national level. We contract with organizations to prepare specialized reports for in-house or private use or public release.

7. Data Leasing – TRKC Inc. makes available links to certain political money databases and search queries under lease arrangements. This data may be presented as a link from a client's web site or presented with the look and feel of the client's own web site. For example, the Washington Post and ABC News link to our donor databases and searches by zip code.

FECInfo Enterprise is a data leasing plan for all or part of the information and searches that appear on the free portion of our web site. This includes our donor searches (by name, zip code, or employer), our candidate/campaign profiles, our candidate money leaders, our PAC money leaders and our politician PACs.

FECInfo Enterprise Plus is a data leasing plan for our more specialized and enhanced proprietary data such as our databases and searches of soft money, lobby reports, executive summaries of corporate political activity, and breakouts of PAC money to committees of Congress. This data is available for use inside an organization or on an organization's web site that is for members only.

TRKC Inc. has developed and makes available on a subscription basis several Internet products for tracking political money in national politics

FECInfoPro provides password-protected access to highly detailed reports, analysis, and information on virtually every major area of American political money. This includes

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information and specialized queries on Lobbying, Soft Money, PAC money, and committees of Congress. It includes twenty-year [sic] PAC activity graphs and a chart of party percentages. An Executive Summary for each PAC also provides cross- links to soft money and lobby figures.

PACtracker provides password-protected access to reports that track the PAC contributions of up to five groups or coalitions of federal PACs (each with an unlimited number of PACs). Summary figures and detailed breakouts of each coalition's contributions can be arranged by committees of Congress, party affiliation and by individual Member names. You select the PACs in the coalitions, and the contributions are updated automatically at the beginning of each month.

2 U.S.C. § 438(a)(4) states that “any information copied from such reports or statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes.” Notwithstanding the fact that TRKC Inc. provides free access to a basic compilation of FEC Reports, the use of these Reports in connection with so many different types of leasing arrangements and subscription services leads this Office to believe that at least some of the services it provides result in information derived from FEC Disclosure Reports being used for commercial purposes in violation of the Act. Therefore, the Commission finds reason to believe that TRKC Inc. violated 2 U.S.C. § 438(a)(4)

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